



Reprinted  
April 11, 2003

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# ENGROSSED HOUSE BILL No. 1701

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DIGEST OF HB 1701 (Updated April 10, 2003 4:33 PM - DI 97)

**Citations Affected:** IC 12-7; IC 12-8; IC 12-9; IC 12-10; IC 12-11; IC 12-12.5; IC 36-2; noncode.

**Synopsis:** Various FSSA matters. Reauthorizes the office of the secretary of family and social services administrative structure until January 1, 2006. Establishes the bureau of quality improvement services within the division of disability, aging, and rehabilitative services (division) to: (1) monitor certain services; (2) assist with quality assurance activities of other bureaus within the division; and (3) establish a complaint process for individuals, providers, and case managers. Allows a member of the committee to participate in a committee meeting by a means allowing simultaneous communication of all present at the meeting in certain circumstances. Requires the coroner to make available the full copy of an autopsy report to the division or the division of mental health and addiction under specified circumstances. Delays the expiration of the commission on mental health. Makes technical corrections.

**Effective:** Upon passage; July 1, 2003.

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## Brown C

(SENATE SPONSORS — LAWSON C, BREAUX, MILLER)

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January 21, 2003, read first time and referred to Committee on Public Health.  
February 17, 2003, amended, reported — Do Pass.  
February 20, 2003, read second time, ordered engrossed. Engrossed.  
February 24, 2003, read third time, passed. Yeas 86, nays 9.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Health and Provider Services.  
April 3, 2003, amended, reported favorably — Do Pass.  
April 10, 2003, read second time, amended, ordered engrossed.

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Reprinted  
April 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1701

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-24, AS AMENDED BY P.L.272-1999,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 24. "Bureau" means the following:

4 (1) For purposes of IC 12-10, the bureau of aging and in-home  
5 services established by IC 12-10-1-1.

6 (2) For purposes of IC 12-11, the bureau of developmental  
7 disabilities services established by IC 12-11-1.1-1.

8 (3) For purposes of IC 12-12, the rehabilitation services bureau of  
9 the division of disability, aging, and rehabilitative services  
10 established by IC 12-12-1-1.

11 (4) **For purposes of IC 12-12.5, the bureau of quality**  
12 **improvement services established by IC 12-12.5-1-1.**

13 (5) For purposes of IC 12-17-2, the meaning set forth in  
14 IC 12-17-2-1.

15 SECTION 2. IC 12-7-2-69, AS AMENDED BY P.L.1-2002,  
16 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2003]: Sec. 69. (a) "Division", except as provided in



subsections (b) and (c), refers to any of the following:

(1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.

(2) The division of family and children established by IC 12-13-1-1.

(3) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.

(B) IC 12-10.

(C) IC 12-11.

(D) IC 12-12.

**(E) IC 12-12.5.**

(2) For purposes of the following statutes, the division of family and children established by IC 12-13-1-1:

(A) IC 12-13.

(B) IC 12-14.

(C) IC 12-15.

(D) IC 12-16.

(E) IC 12-16.1.

(F) IC 12-17.

(G) IC 12-17.2.

(H) IC 12-17.4.

(I) IC 12-18.

(J) IC 12-19.

(K) IC 12-20.

(3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.

(B) IC 12-22.

(C) IC 12-23.

(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 3. IC 12-8-1-10, AS AMENDED BY P.L.83-2002,



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SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 4. IC 12-8-2-12, AS AMENDED BY P.L.83-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 5. IC 12-8-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **This section applies to a meeting of the committee at which at least five (5) voting members of the committee are physically present at the place where the meeting is conducted.**

(b) **A member of the committee may participate in a meeting of the committee by using a means of communication that permits:**

- (1) **all other members participating in the meeting; and**
- (2) **all members of the public physically present at the place where the meeting is conducted;**

**to communicate simultaneously with each other during the meeting.**

(c) **A member who participates in a meeting under subsection (b) is considered to be present at the meeting.**

(d) **The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:**

- (1) **was physically present at the place where the meeting was conducted;**
- (2) **participated in the meeting by using a means of communication described in subsection (b); and**
- (3) **was absent.**

(e) **A meeting conducted under this section does not violate IC 5-14-1.5.**

SECTION 6. IC 12-8-6-10, AS AMENDED BY P.L.83-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 7. IC 12-8-8-8, AS AMENDED BY P.L.83-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 8. IC 12-9-1-3, AS AMENDED BY P.L.272-1999, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The division consists of the following bureaus:

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(1) Disability determination bureaus required or permitted under IC 12-9-6.

(2) The bureau of aging and in-home services established by IC 12-10-1-1.

(3) The rehabilitation services bureau established by IC 12-12-1-1.

(4) The bureau of developmental disabilities services established by IC 12-11-1.1-1.

**(5) The bureau of quality improvement services established by IC 12-12.5-1-1.**

SECTION 9. IC 12-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

(B) IC 12-10.

(C) IC 12-11.

(D) IC 12-12.

**(E) IC 12-12.5.**

(2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:

(A) IC 12-24.

(B) IC 12-26.

(C) IC 12-27.

(D) IC 12-28.

(E) IC 12-29.

(F) IC 12-30.

(3) Supported employment for a person with developmental disabilities.

(4) Epilepsy service centers program.

(5) Epilepsy clinic program.

**(6) Medicaid waivers for in-home services.**

SECTION 10. IC 12-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The bureau shall administer the following programs:

(1) Older Americans Act under IC 12-9-5-1.

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC 12-10-7.

(6) Community and home options for the elderly and disabled

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under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

~~(16) Medicaid waivers for in-home services.~~

SECTION 11. IC 12-11-1.1-1, AS ADDED BY P.L.272-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for developmentally disabled individuals and their families, within the limits of available resources. The planning and delivery of services must be based on the developmentally disabled individual's future plans rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the developmentally disabled individual and that individual's family.

(c) Services for developmentally disabled individuals must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of developmentally disabled individuals.

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of developmentally disabled individuals in state institutions and health facilities licensed under IC 16-28 for

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developmentally disabled individuals. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. ~~which may serve not more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting that was in existence on June 30, 1999.~~ **Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.**

~~(3) Day habilitation and vocational services that are goal oriented and person focused to achieve the degree of independence possible in activities of daily living.~~

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

- (1) developmentally disabled individuals; and
- (2) families of developmentally disabled individuals.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

SECTION 12. IC 12-12.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

## **ARTICLE 12.5. QUALITY IMPROVEMENT SERVICES**

### **Chapter 1. Bureau of Quality Improvement Services**

**Sec. 1. The bureau of quality improvement services is established within the division.**

**Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties.**

**Sec. 3. The bureau shall do the following:**

- (1) Monitor services provided by the following:**

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(A) An entity that provides services to an individual with funds provided by the division or under the authority of the division.

(B) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(2) Assist other bureaus in the division with quality assurance or quality improvement activities.

**Sec. 4. The bureau shall establish and administer a complaint process for the following:**

(1) An individual that receives services from an entity with funds provided through the division or under the authority of the division.

(2) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(3) An individual or entity certified, licensed, or otherwise approved by the division.

**Sec. 5. The director of the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.**

SECTION 13. IC 36-2-14-18, AS AMENDED BY P.L.271-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person

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determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

**(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of:**

**(1) the director of the division of disability, aging, and rehabilitative services established by IC 12-9-1-1; or**

**(2) the director of the division of mental health and addiction established by IC 12-21-1-1;**

**in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.**

SECTION 14. P.L.95-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on mental health established by this SECTION.

(b) The Indiana commission on mental health is established.

(c) The commission consists of ~~sixteen~~ **(+6) seventeen (17)** members determined as follows:

(1) The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve

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on the commission.

(2) The governor shall appoint thirteen (13) lay members, not more than seven (7) of whom may be from the same political party, to serve on the commission as follows:

(A) Four (4) at-large members, not more than two (2) of whom may be from the same political party.

(B) Two (2) consumers of mental health services.

(C) Two (2) representatives of different advocacy groups for consumers of mental health services.

(D) Two (2) members of families of consumers of mental health services.

(E) Three (3) members who represent mental health providers.

One (1) of the members appointed under this clause must be a representative of a for-profit psychiatric provider. One (1) of the members appointed under this clause must be a physician licensed under IC 25-22.5.

(d) Except for the members appointed under subsection (c)(2)(E), the members of the commission may not have a financial interest in the subject matter to be studied by the commission.

(e) The chairman of the legislative council shall designate a legislative member of the commission to serve as chairman of the commission.

(f) Each legislative member and each lay member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

(g) The commission shall do the following:

(1) Study and evaluate the funding system for managed care providers of mental health services.

(2) Review and make specific recommendations regarding the provision of mental health services delivered by community managed care providers and state operated hospitals.

(3) Review and make recommendations regarding any unmet need for public supported mental health services in any specific geographic area or throughout Indiana. In formulating these recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of managed care providers.

(4) Review the results of the actuarial study which must be submitted by the division of mental health and addiction to the commission not later than thirty (30) days after completion of the

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- 1 actuarial study.
- 2 (5) Make recommendations regarding the application of the
- 3 actuarial study by the division of mental health and addiction to
- 4 the determination of service needs, eligibility criteria, payment,
- 5 and prioritization of service.
- 6 (h) The commission shall:
- 7 (1) monitor the implementation of managed care programs for all
- 8 populations of the mentally ill that are eligible for care that is paid
- 9 for in part or in whole by the state; and
- 10 (2) make recommendations regarding the commission's findings
- 11 under subdivision (1) to the appropriate division or department.
- 12 (i) This SECTION expires January 1, ~~2004~~ 2006.
- 13 SECTION 15. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1701, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 9, after "devices." insert "**A member participating through the use of a telecommunications device is considered to be present at the meeting.**".

Page 9, between lines 12 and 13, begin a new paragraph and insert:  
 "SECTION 16. P.L.95-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on mental health established by this SECTION.

(b) The Indiana commission on mental health is established.

(c) The commission consists of sixteen (16) members determined as follows:

(1) The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the commission.

(2) The governor shall appoint thirteen (13) lay members, not more than seven (7) of whom may be from the same political party, to serve on the commission as follows:

(A) Four (4) at-large members, not more than two (2) of whom may be from the same political party.

(B) Two (2) consumers of mental health services.

(C) Two (2) representatives of different advocacy groups for consumers of mental health services.

(D) Two (2) members of families of consumers of mental health services.

(E) Three (3) members who represent mental health providers. One (1) of the members appointed under this clause must be a representative of a for-profit psychiatric provider. One (1) of the members appointed under this clause must be a physician licensed under IC 25-22.5.

(d) Except for the members appointed under subsection (c)(2)(E), the members of the commission may not have a financial interest in the subject matter to be studied by the commission.

(e) The chairman of the legislative council shall designate a legislative member of the commission to serve as chairman of the commission.

(f) Each legislative member and each lay member of the

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commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

(g) The commission shall do the following:

- (1) Study and evaluate the funding system for managed care providers of mental health services.
- (2) Review and make specific recommendations regarding the provision of mental health services delivered by community managed care providers and state operated hospitals.
- (3) Review and make recommendations regarding any unmet need for public supported mental health services in any specific geographic area or throughout Indiana. In formulating these recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of managed care providers.
- (4) Review the results of the actuarial study which must be submitted by the division of mental health and addiction to the commission not later than thirty (30) days after completion of the actuarial study.
- (5) Make recommendations regarding the application of the actuarial study by the division of mental health and addiction to the determination of service needs, eligibility criteria, payment, and prioritization of service.

(h) The commission shall:

- (1) monitor the implementation of managed care programs for all populations of the mentally ill that are eligible for care that is paid for in part or in whole by the state; and
- (2) make recommendations regarding the commission's findings under subdivision (1) to the appropriate division or department.

(i) This SECTION expires January 1, ~~2004~~: **2006**."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1701 as introduced.)

BROWN C, Chair

Committee Vote: yeas 13, nays 0.

**EH 1701—LS 7111/DI 104+**



## COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1701, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 4 through 8.

Page 3, delete lines 31 through 32.

Page 3, line 38, delete "present" and insert "**presents**".

Page 3, line 41, after "calendar." insert "**At least two-thirds (2/3) vote of the members present at a meeting is required to place a rule upon a consent calendar under this subsection.**".

Page 4, line 3, after "chapter." insert "**A technical change under this subsection does not include any change that substantively alters the proposed rule.**".

Page 4, line 6, delete "The committee may conduct a" and insert "**This section applies to a meeting of the committee at which at least six (6) voting members of the committee are physically present at the place where the meeting is conducted.**".

(b) A member of the committee may participate in a meeting of the committee by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to communicate simultaneously with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.".

Page 4, delete lines 7 through 11.

Page 4, line 12, delete "(b)" and insert "(e)".

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Page 9, line 20, strike "sixteen (16)" and insert "**seventeen (17)**".  
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1701 as printed February 18, 2003.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1701 be amended to read as follows:

Page 3, delete lines 8 through 42.

Page 4, line 4, delete "six (6)" and insert "**five (5)**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1701 as printed April 4, 2003.)

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